North County Watch

Looking Out Today For Tomorrow

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From: Susan Harvey

August 28, 2008
Planning Commission
County of San Luis Obispo
San Luis Obispo, CA 93408 Subject: Viborg Gravel Mine

Dear Planning Commissioners,

There is substantial and substantive evidence in current and historic documents in the record that CEQA requires an EIR analysis of the cumulative effects of the numerous proposed sand and gravel operations in this area of the Salinas River and its tributaries. A programmatic EIR is the proper vehicle for these applications and the health of the resource.

In addition to this Viborg application, there are permitted, current mine applications, or mine sites undergoing pre-application analysis that make an assessment of cumulative impacts necessary.

The following comments are essentially the comments we submitted for the Pankey hearing in May. In addition to the information available at that time, we direct you attention to a DFG letter dated May 7, 2008, and a letter from Kit Custis dated July 28, 2008, letters from RWQCB dated June 5 and 10, 2008 as support for a Programmatic EIR.

The list of current County mines identifies three mines in this area:

- North River (Viborg Construction owner, 50,000 annual Cubic Yards)
- County North River (Co. of SLO owner, annual CY unknown).
- Union Asphalt (20,000 CY)

Five applications are making their way through the system currently:

- Pehl – 80,000 annual CY
- Viborg – 45,000 annual CY
- Pankey – 145,000 annual CY
- Martin Pond – 12,000 annual CY
- Weyrick Gravel Mine – 65,000 annual CY

In pre-application meetings have occurred:

- Viborg Azzopardi – 75,000 annual CY

Outstanding enforcement issues exist with:

- North River - Viborg

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BACKGROUND

In the unincorporated areas of the Salinas River Planning Area, there are at least four sand and gravel mining operations along the Salinas River. Others such as Union Asphalt on the Huer Huero are on tributaries within the Salinas River watershed. Still others operate within the Paso Robles and Atascadero City boundaries.

The four operations on the river outside the cities are located within a several mile stretch of the river in Templeton. They are Templton/Ormonde, Miller, Nesbitt, and Smith. Three of the four mines are currently extracting resources.

HISTORY

Previous County actions have required full environmental review through an EIR for similar projects. On August 16, 1988 the Board of Supervisors required that an EIR be prepared for a Viborg gravel mine to be located on River Road, 1 ½ miles south of Estrella Road. The issues were Kit Fox habitat, impact on prime ag land, traffic and noise.

In July, 1999, the Planning Commission denied the application for Weyrick Surface Mine, north of Wellsona Road, 60,000 annual CY. The project was revised and the Planning Commission required that an EIR be prepared. The issues were: impact on endangered and species of concern, archeological resources, hydrologic effects of mining on neighboring property, truck traffic, impacts on agricultural operations, impacts of dust on air quality and agricultural production, proximity to residential neighborhood, noise.

Prior to approval in 2003, an EIR was required for a sand mining operation by Viborg on Smith property in Templeton.

All of these issues continue to be as much of a concern today as they were 10-20 years ago. Indeed, air quality, traffic and endangered species recovery have gotten worse, not better. If an EIR was deemed necessary in 1988 and 1999, and 2003, it is even more critical today.

The population in the county has increased five-fold since 1980, raising the potential of conflict between residents and future mining operations. An example is provided.

In May 2007 when evaluating a request to convert land in the agricultural category in Templeton to single family residences for the construct of 112 homes, staff raised safety concerns. "Placing residences within the EX, combining designation represents a potential conflict with active, potentially active, and future mining operations for both the future residents of the single-family homes and the mining operations that provide much needed sand and gravel resources for the construction industry." [Authorization to process General Plan Amendment LRP2006-00010 was denied.]

Likewise concern must be raised when evaluating new extraction sites near existing residential uses or recreational areas in San Miguel.

SUPPORT FOR AN EIR STUDY OF CUMULATIVE IMPACTS

In our opinion the following excerpts from various expert sources support the requirement for an EIR analysis of the aggregate of potential mining operations in the immediate area. <u>The total of known permitted and applied for annual gravel removal clustered around San Miguel is 492,000 annual Cubic Yards.</u> From your current staff report, Balance Hydrologics finds the Sierra Delta studies of the Pankey and Viborg mines to be deficient of technical data. (See staff report page 135) Further, Balance Hydrologics cautions of the importance of diligently managing mining operations.

Letter dated June 27, 2007 to Mr. Jeff Oliveira from Mr. Shawn Chartrand, Balance Hydrologics VIBORG and INDIAN VALLEY Mines:

> Despite its economic importance, though, reasoned diligence must be practiced when reviewing new in-stream or floodplain mining permits or while managing existing mining operations. This is a present day management necessity because the mining of aggregate has caused damage across the globe to river for and process, private property, and public infrastructure (Sandecki 1989; Collins and Dunne 1990; Kondolf 1997; Kondolf 1998). (Page 137)

Historically, the County has required EIRs for applications in this area. If we are to take *Balance Hydrologics* warnings seriously, the County would be remiss in not requiring and EIR study of the cumulative effects of ALL the proposed mining operations here.

Letter dated June 27, 2007 to Mr. Jeff Oliveira from Mr. Shawn Chartrand, Balance Hydrologics VIBORG and INDIAN VALLEY Mines:

> …These questions are the result of more recent attempts to better manage aggregate operations and are essentially focused on protecting existing physical and biological resources, as well as public infrastructure and private property and life. **Damage has accompanied many aggregate mining operations in the past because of historically relaxed environmental regulations and extraction operations within active floodplains and channels….Much of what the literature has to offer is based on lessons learned from the past when in-stream mining activities were regulated to a much lesser degree than during contemporary times.** (Page 137) emphasis added

Relying on assertions that improved methods for assessment through Mitigated Negative Declarations does not address Cumulative Effects and dangerously ignores the warning for the need to protect physical and biological resources, public infrastructure, and private property and life.

For example, the Geology and Soils analysis of the Negative Declaration (Staff Report page 65) judges that the extraction of 125,000 annual Cubic Yards will have little impact compared to the average annual supply of 522,700 CY. <u>However, the total of known permitted and applied for annual gravel removal clustered around San Miguel is 492,000 annual Cubic Yards and NOAA Fisheries recommends holding extraction to no more than 50% of the replenishment rate.</u> The cumulative effects of ALL potential and current mining operations in the area MUST BE STUDIED.

Letter dated June 27, 2007 to Mr. Jeff Oliveira from Mr. Shawn Chartrand, Balance Hydrologics VIBORG and INDIAN VALLEY Mines:

> SDC could also consider the cumulative impacts to the Salinas River due to proposed additional aggregate extraction downstream of already existing operations. We anticipate that SDC will find that the proposed extraction volume plus that which is extracted upstream at existing facilities exceeds the likely range of bedload replenishment to the proposed reach of mining, as suggested by Watson and others (2003). **For planning purposes, establishment of a reasonable range of sediment replenishment rates is suggested because NOAA fisheries (2004) recommends holding extraction rates to no more than 50% of the replenishment rate**.(Staff report page 140 emphasis added)

Mr. Chartrand reiterates this concern in his report on the PEHL Mine.

Letter dated June 27, 2007 to Mr. Jeff Oliveira from Mr. Shawn Chartrand, Balance Hydrologics PEHL Mine:

> Consideration of the bedload fraction replenishment rate will permit evaluation of the cumulative impacts from additional aggregate mining downstream of the existing Viborg and Union Asphalt mines at the proposed Pehl mine. **We anticipate that SDC will find that the proposed extraction volume**

plus that which is extracted upstream at the existing facilities exceeds the likely range of bedload replenishment to the proposed reach of mining, as suggested by Watson and others. For planning purposes, establishment of a reasonable range of sediment replenishment rates is suggested because **NOAA Fisheries (2004) recommends holding extraction rates to no more than 50% of the replenishment rate.** (Page 5 emphasis added)

Hydrologist Mr. Lewis Rosenberg raises the same issue of replenishment in a letter referring to the PEHL mine. NCW submits that hydrologic experts have made it clear that an assessment of the Cumulative Impacts is essential.

Letter dated May 24, 2006 to Mr. John Pehl from Mr. Lewis Rosenberg:

In addition, the proposed extraction of 125,000 cubic yards for the Pehl mine…is large relative to three nearby upstream mining operations: Union Asphalt (20,000 cubic yards) and Viborg Sand and Gravel (50,000 cubic yards). Explain how the proposed mining operation will have 2 1/2 times the amount of material as the nearest upstream mine, especially considering that there are no new sources of sediment between the proposed mine and the existing mines. (Page 2)

Although The argument have been made that the county has such an overwhelming need for aggregate materials that the need poses a sufficient overriding consideration that an EIR analysis of cumulative effects is not warranted. This case has not been in any of the analysis or reports presented. It amounts to urban legend until it is proven. Furthermore, the judgment of overriding consideration is rightfully made only in the EIR process. Mr. Rosenberg addresses the need for the evaluation, not hearsay, of the County's aggregate needs.

Letter dated May 24, 2006 to Mr. John Pehl from Mr. Lewis Rosenberg:

The Summary of findings and Recommendations on p. I of SDC (2005) states that under "Soils" that "River sand and gravel from the subject are ideal for construction use." However, there is no discussion in the report text of why they are ideal, nor are the physical and chemical properties of the aggregate evaluated. For, example, certain types of rocks such as chert and opal derived from the upstream Franciscan Complex and Monterey Formation rock types can cause alkali-aggregate reactivity with some types of Portland cement, thereby weakening the concrete. (Page 3)

The following citation *Balance Hydrologics June 27, 2007PEHL Mine*, gives support for considering ALL of the potential mining projects as one. We believe this supports the need to consider impacts to channel dynamics in the aggregate over the whole length of the mining project areas and is an argument against piecemealing. The Pankey mine will extract from nearly 2 miles of Salinas River bed and over a half mile of Vineyard Canyon Creek. Mr. Chartrand notes that the area of impact study for monitoring purposes should equal at least 3 times the length of active mining. For Pankey alone that covers 6 miles of the Salinas River – a distance that encompasses the other sites.

Letter dated June 27, 2007 to Mr. Jeff Oliveira from Mr. Shawn Chartrand, Balance Hydrologics PEHL Mine:

The most important aspects of annual monitoring on in-stream mining operations is to evaluate and document (1) the dynamics of channel form and condition within the reach of mining, and (2) the dynamics of channel form and condition within the reaches immediately upstream and downstream of the reach of mining. A good rule of thumb is to monitor upstream and downstream a distance which is equivalent to at least the length of the reach of mining – therefore the total length of monitoring should be equal to at least 3 times the length of active mining. (Page 6)

Monitoring should extend upstream and downstream of the reach of mining a distance at least equivalent to the length of active mining. Therefore, the total length of monitoring will equal 3 times the length of active mining…. It may be advisable to extend the downstream limits further than one length due to the anticipated flood flow harvesting of stored sediment downstream and upstream of the

mining site. Collins and Dunne (1990) suggest extending the monitoring to include at least the first bar upstream and downstream of the extraction zone. (Page 7)

AIR QUALITY CUMULATIVE IMPACTS

The total potential of 492,000 Cubic Yards of material to be removed from this vicinity between the allowable operation months of June 1 through October 31 annually generates 24,600 truck trips. (492,000 divided by maximum 20 yards per truck). Based on the APCD assumption of 108 working days in five months, it breaks down to 228 truck trips a day to remove the material, 29 truck trips an hour. The numeric maximum potential for a 20 year life of these sites is 492,000 truck trips. The Cumulative Impacts must be studied.

From the Pankey Staff Report, a letter from APCD:

Cumulative Impacts

The APCD is concerned that defining air quality mitigations for each of the four projects individually will not provide adequate mitigation for cumulative impacts of all of the projects that reach final approval. The air quality impacts effect both the formation of ozone precursors and the exposure to diesel exhaust, a toxic air contaminant as defined by the California Air Resources Board (ARB). Since the use on-road heavy-duty diesel truck trips play such a vital role in the sand and gravel mines overall operations, and the overall magnitude of the trips is not yet defined for all the proposed four mining operations being considered in the San Miguel regions, it becomes very difficult to quantify and mitigate the impacts to ensure air quality and public health are concerned. Typically, these kind of refined air quality evaluations are performed as part of an Environmental Impact Report (EIR) process, a process that also allows for cumulative impact analysis. (Pankey Staff Report page 120)

DEPARTMENT OF CONSERVATION

Although the Department of Conservation letter was not directed to address cumulative impacts, the DoC considers the issue of protecting anadromous fish so paramount that their letter recommends that mining permits have a life of 5 years. We believe this concern supports the study of cumulative impacts within an EIR process.

From the Pankey Staff Report, Department of Conservation letter dated February 8, 2008:

The National Marine Fisheries Service recommends that permits should have a 5 year limit and be subject to annual review to protect anadromous fish and their habitats. (Page 129)

Steelhead have been documented from multiple upstream tributaries and the main stem and Trout Creek in the Santa Margarita area.

The Department of Conservation letter cites many examples of inconsistencies in the Reclamation Plan and changes required for approval of the Reclamation Plan. North County Watch requests that all inconsistencies and changes be incorporated/required before approval of the mining permit.

The DoC letter in the Staff Report cites Senate Bill 668.

From the Pankey Staff Report, Department of Conservation letter dated February 8, 2008:

Recent legislation (Senate Bill 668, Chapter 869, Statues of 2006) amended PRC section 2774 with respect to lead agency approvals of reclamation plans, plan amendments, and financial assurances. These new requirements are applicable to the reclamation plan. Once the OMR has provided comments on the revised reclamation plan, a proposed response to the comments listed above must be submitted to

> the Department at least 30 days prior to lead agency approval. The proposed response must describe whether you propose to adopt the comments. If you do not propose to adopt the comments, the reason(s) for not doing so must be specified in detail. At least 30 days prior notice must be provided to the Department of the time, place, and date of the hearing at which the revised reclamation plan is scheduled to be approved. If no hearing is required, then at least 30 days notice must be given to the Department prior to approval. Finally, within 30 days following approval of the revised reclamation plan, a final response to these comments must be sent to the Department. Please ensure that the County allows adequate tie mint eh approval process to meet these new SMARA requirements. (Page 132)

It does not appear that these requirements have been satisfied, given the fact that, at a minimum, the County has not incorporated the DoC's recommendation to limit the term of the permit to 5 years as suggested, nor has the County provided any rationale for the 20-year limit, other than that it is being proposed by the applicant.

SALINAS RIVER NATURAL AREA

The county's Ag and Open Element references the importance in assessing the overall impact of sand mining, particularly in the Salinas River corridor. Such an assessment appears to require an EIR. In discussion of Open Space policy OSP20: Establishment of Natural Area Preserves, 3. Significant Biological Habitat or Geographic Features:

> "Salinas River Natural Area: Located in an area extending from the dam at Santa Margarita Lake north to the San Luis Obispo County/Monterey County boundary. The dominant community is riparian. The State Division of Mines and Geology has designated portions of the area to also contain significant deposits of sand and gravel. Use of these aggregate resources is an important state and county objective which must be balanced with protection of other resources in the area. The corridor is a combination of public and private ownership that creates access opportunities as well as restrictions."

Salinas River Natural Areas are further discussed in the Natural Areas Plan (Appendix B of the Ag and Open Space Element). Potential areas are graphically depicted as the Salinas flood zone.

TRAILS AND NATURAL AREAS

A multi-use recreational trail on the east side of the Salinas River should be considered as reclamation mitigation to compensate for the impact to the community as well as an open space easement over the entire Salinas River flood zone.

<u>Big Sandy Natural Area</u>

The Big Sandy Wildlife Area is managed by the California Department of Fish and Game and is so noted in the Natural Areas Plan (Appendix B of the Ag and Open Space Element). State property as well as adjacent privately owned land is identified as the Big Sandy Natural Area. <u>Therefore all possible sand-mining operations need to be evaluated as to their potential Impact to the nearby Big Sandy Natural Area, which also contains state property.</u>

The Big Sandy Natural Area consists of public and private lands.
Public Lands: 735 acres Department of Fish and Game, and 2 acres county.
Private Lands: 300-600 acres between three landowners.

WATER QUALITY AND WATERSHED PROTECTION

The 2004 Upper Salinas River Watershed Action Plan prepared by the Upper Salinas - Las Tablas Resource Conservation District strongly implies an Environmental Impact Report is needed when human activities such as multiple proposed sand mining operations are under consideration.

Upper Salinas River Watershed Action Plan Chapter One

> The Salinas Valley is by far the largest watershed in the Monterey Bay National Marine Sanctuary area and, according to the Trust for Public Lands, 'the most degraded by human activities'. (Page 2)
>
> Watershed wide concern for appropriate planning for the Salinas River resulted in a workshop sponsored in 1991 by San Luis Obispo County Supervisor, Harry Ovitt, and Monterey County Supervisor, Tom Perkins. As a result of the interest generated by this workshop, in 1992, a Coordinated Resource Management and Planning Project, or CRMP, planning program for the Upper Salinas Watershed was begun by the San Luis Obispo County Parks and Open Space Division. As part of the CRMP, a brief study of water resources, ecosystem, and land use was conducted. Thus, the State Lands Commission states that the Salinas River finally became 'the focus of comprehensive management.' 'In the future, the River will no longer be treated merely as a water supply or a flood threat, but as a renewable resource which needs to be managed for protection in perpetuity. Value of the River, other than water supply--such as fish and wildlife habitat and public recreation--will be part of long-term management goals.' (Page 12):

Chapter Five further states:

> ...this is the largest river system south of San Francisco still supporting an anadromous steelhead trout population. (Page 1)
>
> The State of California has noted that water quality in this watershed is threatened. The California State Water Resources Control Board has listed the Salinas River as an 'impaired water body,' indicating non-point source pollution impacts on water quality, as per Section 303(d) of the federal Clean Water Act (CWA). In addition, the Central Coast Regional Water Quality Control Board has identified the Salinas River as a 'priority watershed,' a designation applied to watersheds with 'documented water quality problems such as groundwater contamination by nitrates, excessive erosion and sedimentation, or pesticides in surface waters.'

OTHER ISSUES

We could not find mention in any document of the study addressing the risk of exposure to workers and downwind residents to Valley Fever spores carried by the dust. This issue must be analyzed.

Additionally, there is need for more than surface archeological surveys, based on the accumulation of sediment since aboriginal times. For example, 15 human remains were found at the Lakes Project in Atascadero.

BIOLOGICAL CUMULATIVE EFFECTS

Although NCW has not addressed the Biological Impacts of these mining operations, the potential scale of biological disruption from 9 operations (currently permitted and proposed) in this area cannot be adequately assumed or anticipated without an EIR studying all of the projects. The impacts to the movement of wildlife through the corridor, and impacts to bird populations, could be significant.

CULTURAL CONSIDERATIONS

The MND fails to analyze impacts to Mission San Miguel, a National Historic Site, from vibrations caused by 64 truck trips a day during the days of operation over a twenty year period.

Yours truly,
Susan Harvey